1: Hart & Pilling E-5 (1928-1954) 1960
OI20 Tiwi OI20

4

The Collective Life

Legal Affairs

THE MOST SATISFACTORY overall view of Tiwi culture is that, within the general framework of mainland patterns, it had developed along its own distinctive lines. Some of these distinctive lines of development are traceable to the relatively favorable food and rainfall situation; others are traceable to the absence of neighbors. The unusually large polygamous households are, we think, attributable to the good food supply. But the large households of the Tiwi, economically efficient as we judge them to have been, involved certain social costs, the most obvious of which was the enforced celibacy of the younger men. This compulsory celibacy did not, of course, mean chastity. Not only were there the endless charges of seduction against young men, but there was also the more objective fact that most young wives continued to become pregnant with monotonous regularity, no matter how ancient and senile their husbands. (The Tiwi belief that babies came from spirits prevented pregnancies from being used against young wives as proofs of unfaithfulness.) Despite the numerous cases of seduction or alleged seduction, few young men ever took the most straightforward way of escaping from their state of compulsory celibacy—namely, abducting a young wife and running off with her. Here we encounter the other factor of the Tiwi natural environment that explains so much about their cultural development—and that is the absence of neighbors. Young men did not elope with young wives because there was no place to elope to. On the mainland such elopements were common, and the couple sought refuge with a neighboring tribe. But an eloping Tiwi couple could only take refuge with other more remote Tiwi bands where the system was the same as that which they had rebelled against back home, and the people with whom they sought shelter were interrelated with those whom they had defied back home. Hence, no matter where they fled, the Tiwi system, embodied in a war party of the girl's husband's friends and

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1: Hart & Pilling E-5 (1928-1954) 1960
OI20 Tiwi OI20

relatives, soon caught up with them. Several cases of such elopements occurred during the period of fieldwork, including the case of one young couple (Peanut and Jumbo's wife) who made repeated attempts to elope over a period of several years. But despite the relaxation of standards that white contact had brought, as long as they remained on the islands these violators of the system were soon forced back into conformity by outraged public opinion and its punitive sanctions. Unless he fled to the mainland with his girl, the young bachelor who stole an old man's young wife had to restore her sooner or later to her rightful husband. Under pre-white conditions they could not flee to the mainland; if they tried, they both probably drowned on the way or at least were never heard of again.

Thus the isolation of the Tiwi made the rule of the gerontocracy much more absolute, and the enforcement of it much more effective than was possible for any of the mainland tribes where violators of the rules could skip across the border. Tiwi bachelors had to be satisfied, by and large, with casual and temporary liaisons and even in these, because of the constant suspicion of the old husbands and the constant spying and scandalmongering of the old wives, they had to be prepared to be often caught and, when caught, to be punished. Thus we come to another of the main emphases in Tiwi culture—the enormous frequency of disputes, fights, duels, and war parties arising directly or indirectly out of cases of seduction. If we may call this area of life the legal area, then over 90 percent of legal affairs were matters in which women were in some way involved.

THE DUEL The Tiwi formula for handling seduction was very straightforward and clear-cut in its formal outline. Since senior men had young wives and young men had not, seduction was necessarily viewed as an offense by a young man against a senior man. Hence the charge was always laid by the senior and the younger man was always the defendant.[1] At night in camp the accuser hurled his charges at the offender. We described earlier the alternatives available at this stage to both parties. Two of those alternatives were for the old man to press the matter to a public "trial," either the next day, if the camp was already a large one, or else on the next occasion when both men were present in a big gathering.

The basic shape of all Tiwi trials was standardized in the form that we have been calling the duel. Everybody present—men, women, children, and dogs—formed a rough circle in an open space, sitting or standing according to their degree of excitement at the moment. At one end stood the accuser, the old man, covered from head to foot in white paint, with his ceremonial spears in one hand and a bundle of the more useful hunting spears in the

[1] Under pre-white conditions this had to be so. After the arrival of the Catholic missionaries, some young men through Mission manipulation got a young wife at an age that would have been impossible earlier. This resulted in an occasional case around the Mission where a *young* husband charged a man older than himself with seducing his wife. The resulting duel, with an older man as defendant, was regarded by the Tiwi as both embarrassing and ludicrous, perhaps analogous to the average American's attitude toward female professional wrestlers. (See Hart 1954 for a case of this sort, the duel of Bob v. Louis.)

1: Hart & Pilling E-5 (1928-1954) 1960
OI20 Tiwi OI20

male of her choice and the couple soon set up housekeeping with Father Gsell's blessing. This was, at least, how the missionary saw it.

But what were the real circumstances surrounding this "free choice" by Polly? Her real father—that is, the husband to whom her mother Rita was married when Polly was born—had promised Polly to Kardu. Timalarua had "stolen" Polly from Kardu, her rightful husband. Nor is this the whole story. Rita had been "stolen" by Puti from Polly's father Turimpi. After several fights between Puti and the aging Turimpi and after Rita's complete refusal to return to Turimpi, Turimpi allowed Puti to keep Rita as his wife. Polly, however, was ultimately to go to the man to whom she had been promised, Kardu. But Puti, as the potential next father of Polly, had promised Cabbagee that as soon as Kardu died Polly was to be Cabbagee's wife. That is, when Polly chose Cabbagee as her mate she was only bypassing Kardu and taking as her husband the next normal alternative open to her.

When one considers what parts of Father Gsell's reform were significant in this case, one finds that only late consummation of marriage, monogamy, and marriage between agemates were important. A female did not actually have a "free choice" of her mate as Father Gsell had hoped and, in fact, had specified. She selected a youth to whom one of her relatives had at least tentatively promised her. Or (to put it in Hart's terms) she married—under Mission auspices—a young man who had at least a second or third mortgage on her.

Let us follow the case of Cabbagee's marriage further. He married Polly when he was about 23; he was too young to be married in the old pattern and was, therefore, happy to get a wife and be on his way up the social ladder. But when the next female promised to him (before her birth) came of age and he collected her, Polly made a terrific row. She did not want any younger female around her household as a second wife and told the priest at the Mission so. He in turn deprived Cabbagee of all gifts of tobacco and food and sent him and his family to the bush to think over the matter. After a few months, Cabbagee decided that he wanted tobacco and that after all the only place he could get it was at the Mission. He and his family returned and he gave up his second wife to Father Gsell, for a payment of food.

Younger men who were getting wives from among Father Gsell's convent girls thus found that they were unwise to accept a second wife from any other source. But such a young man, married under Catholic auspices, soon found that he could enhance his prestige without invoking criticism from the Mission if he gathered around him his own female relatives, the younger of whom he could give away later, one at a time, to men of his choice. A married man like Cabbagee, who gave another man his sister or sister's daughter, was in a position to ask all sorts of favors from the recipient, especially gifts of food, tobacco, and trade goods, and support in politics.

By the end of World War II, even these newer concepts of marriage agreement had begun to alter. There were many young Christian females desiring to have husbands whose fathers and brothers were not asking further wives as repayment. The fathers began to ask for new types of concessions

1: Hart & Pilling E-5 (1928-1954) 1960
OI20 Tiwi OI20

from their future sons-in-law and demands which look very much like bride price and bride service developed as a basis for marriage arrangement. A young girl had a relatively "free choice" of her future spouse. But following this selection, her father let it be known to the young man what he expected. The desired payment was often stated in Australian money by the 1950's; some men were asking as much as a hundred pounds for a daughter. (This was a very high sum, since Tiwi males working for the Army received four pounds a week as normal wages.) Other men were asking that their sons-in-law live with them, thus leaving their own parental home, and contribute regularly to the upkeep of the household of the father-in-law. This was, indeed, quite a practical arrangement, for when such a young man went to work in Darwin his wife had to be supervised at home and, further, his employer was supposed to send home to the Mission part of the young man's wages.

Thus, by 1954, the following type of marriage agreement was initiated by the great majority of Tiwi with marriageable daughters, specifically those who centered their activities at Bathurst Island Mission and Garden Point. A young girl chose her future husband from her single, male agemates, sometimes with a suggestion from her father. Her father informed his future son-in-law of the obligations incumbent upon him, which normally included matrilocal postmarital residence and a bride price. An older woman with children, or even one without any offspring, who became a widow, was discouraged from remarrying by her father, if he survived, and by her brother after her father's death. The father or eldest brother of a widow with a daughter reaped the benefits of allowing that daughter to marry the young man whom she desired. The widow herself did not remarry but stayed in the household of her father or brother.

Residence Patterns

By 1953, traditional Tiwi residence patterns had undergone major modifications, some of which have already been mentioned. The old residence areas of the bands had been depopulated; in fact, nearly all the Tiwi were located around one of four European establishments—those at Darwin, Bathurst Island Mission, Garden Point, or Snake Bay. In each of these areas a centralized village pattern had developed. Within the Tiwi communities at Snake Bay, Garden Point, and Bathurst Island Mission there remained a few of the old large households with a polygamous base. But in all these camps the household heads were well past sixty and in most cases past seventy. Polygamous households were dying out by 1953.

But what was replacing them? One might assume that the European pattern of the single family household based upon neolocal residence would have emerged as the new Tiwi system. This was not the case, however. Just as Hart found in 1928-29 that successful Tiwi men were the heads of large establishments, so in 1953-54 the younger male leaders had gathered around

10:Goodale E-5 (1954) 1962 O120 Tiwi O120

582 of the Tiwi. Any variation from the proper, preferred form of a marriage contract in one generation will not normally have any effect on the marriages of the succeeding generation (indeed, there may not be any succeeding generation if the woman is past child-bearing age). When and if the effect is felt in the marriage contracts of the second descending generation, approximately 80 years will have elapsed, i.e., time enough for necessary social adjustments to have been made and accepted. And since a woman's husbands have no control over their daughters' initial marriages, variation from the patterned norm of unilateral cross-cousin and descent-group exchange is not only allowed but is a frequent occurrence. While certain alternatives are preferable, such as a cross-cousin from a different descent group, marriage with relatives other than cross-cousins is permitted with certain limitations.

Type B Contracts

584 A Type B marriage is one which is arranged by a bride's father or mother's husband. A bride's father has a right and a duty to arrange a daughter's marriage if, and only if, her Type A contract has become void, either because of the death of her promised husband and the lack of any legitimate (A2) heirs to her Type A contract, or because her mother has deemed the contract void because of non-fulfillment of obligations on the part of the promised husband. Although a marriage resulting from a Type B contract may in fact be 582 the first actual marriage of the bride, it is considered a secondary 587 marriage by the Tiwi, and therefore the selection of a groom by the bride's father need not necessarily be confined to the preferential category of FaSiSo. Because the bride's father also has obligations to his own descent group, he may well give his daughter to a member of his matrilineal sib. This may or may not be the same descent group as that from which the first groom was selected. The bride's [583] father, if he is a man "on the way up," may also make "daughter exchange" an essential part of a Type B contract.

Type C Contracts

584 A Type C contract is one which is arranged by a woman's brothers. When a woman's father dies, her brothers inherit the duty 587 to look after her welfare, and, as this duty applies to their sister's 593 marriage, they may well find themselves in a position to arrange a secondary marriage for her. Since they usually belong to the same descent group as their sister, they need not necessarily consider descent-group obligations in the choice of a groom. Brothers, like fathers, may well make the direct exchange of women an essential part of a Type C contract.

Type D Contracts

A Type D contract is one which is ostensibly arranged by a woman's sons, after the death of her brothers. If a young man who

10:Goodale E-5 (1954) 1962 OI20 Tiwi OI20

13 *ilimani:* mother's brother; also MoMoSo, MoMoSiSo, MoFaFa. Affinal application: HuFa, FaSiHu, MoFaMoHu.
14 *intinganinga:* father's sister; also FaFaDa, FaFaSiDa, MoFaSiDa. Affinal application: HuMo, "MoBr" Wi.
15 *timandinga:* classificatory "father's sister"; also MoMoBrDa. Affinal application: MoBrWi, WiMo (before contract).
16 *ambrinua:* wife's mother (after contract); also DaHu (ws) after contract.

While the Tiwi make no terminological distinction between an actual and a classificatory MoBr (*ilimani*), they do distinguish between an actual FaSi (*intinganinga*), with whom the wife of a classificatory MoBr is classed, and a classificatory "FaSi" (*timandinga*) who is the wife of an actual MoBr. Female informants say: "We cannot marry the son of a real mother's brother, but a long-way mother's brother's son is all right." Male informants phrase the rule differently: "We cannot marry the daughter of a real father's sister; we call our mother-in-law *timandinga* before the contract and *ambrinua* afterwards." This terminology, together with the informants' statements, rather clearly implies unilateral cross-cousin marriage.

Terminology in the First Descending Generation

17 *imerani:* son (ms); also BrSo (ws), MoBrDaSo, DaDaSo (ms), BrDaDaSo (ws). Affinal application: DaHu (ws) before contract, SiDaHu (ms), SiDaDaDaHu (ms), DaDaDaHu (ws).
18 *imeraninga:* daughter (ms); also BrDa (ws), MoBrDaDa, DaDaDa (ms), BrDaDaDa (ws). Affinal application: SoWi (ws), SiSoWi (ms) DaDaSoWi (ws), SiDaDaSoWi (ms).
19 *morti:* son (ws); also SiSo (ms), DaDaSo (ws), SiDaDaSo (ms). Affinal application: DaHu (ms), BrDaHu (ws), DaDaDaHu (ms), BrDaDaDaHu (ws), MoBrDaDaHu.
20 *maringa:* daughter (ws); also SiDa (ms), DaDaDa (ws), SiDaDaDa (ms). Affinal application: SoWi (ms), BrSoWi (ws), DaDaSoWi (ms), MoBrDaSoWi.

Although the terms appropriate to the first ascending and first descending generations are in general kept distinct, they are to some extent interchangeable when warranted by differences in relative age and the behavior associated therewith.

The applications of the terms *morti* and *maringa*, in contrast to those of the terminology in the first ascending generation, suggest a rule of bilateral cross-cousin marriage with sister exchange. The rest of my analysis, however, indicates a strong preference for unilateral cross-cousin marriage and the impossibility of sister exchange in Type A contracts. The seeming inconsistencies may, of course, reflect a period of uncompleted change in social structure, but this lies outside the province of the present paper, which is concerned with showing how the system operates today.

Terminology in the Second Ascending Generation

21 *amini:* mother's father; also MoFaBr, FaMoBr. Affinal application: MoMoHu, FaMaSiHu.
22 *ama:* father's mother; also FaMoSi, MoFaSi. Affinal application; MaFaWi, MoMoBrWi.